

REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

PENDING CLAIMS

Claims 1-12 were pending, under consideration and subjected to examination in the Office Action. No claims have been amended, canceled and/or added. At entry of this paper, Claims 1-12 will be pending for further consideration and examination in the application.

'101 REJECTION - ALLEGED NON-STATUTORY CLAIM(S)

Claims 1-12 have been rejected under 35 USC 101, apparently because such claims represent alleged non-statutory subject matter. **Strong traversal is appropriate.**

More particularly, while MPEP 2106 states that "certain types of descriptive materials such as ...photographs [which are] ...merely stored so as to be read or outputted by a computer without creating any function interrelationship, either as part of the stored data or as part of the computing processes performed by the computer..." is not statutory subject matter, MPEP 2106 DOES STATE that, "In contrast, **a claimed computer-readable medium encoded with a data structure [that] defines structural and functional interrelationships between the data structure and the computer software and hardware components which permits**

the data structure's functionality to be realized..." IS STATUTORY SUBJECT MATTER.

In contrast to containing purely image data (e.g., a bitmap image of photograph), Applicant's disclosed and claimed invention further contains "rounding method information interrelated to the information of images, for specifying a positive rounding method or a negative rounding method and useable by a computer for interpolation of intensity values of pixels in performing the motion compensation." Such "information of images" and interrelated "rounding method information" represents, in essence, data structure information which defines structural and/or functional interrelationships, which can be used by a computer to achieve successful functionality in reproduction of the recorded image, i.e., the computer may utilize the supplied "rounding method information" to apply an appropriate positive rounding method or a negative rounding method for interpolation of intensity values of pixels in performing motion compensation. Thus, the computer is thus enabled by the "information of images" and interrelated "rounding method information" to correctly reproduce Applicant's images and thus the requisite data-structure/functionality required under U.S. law is provided, making Applicant's claims statutory (as opposed to purely image (e.g., bitmap) claims).

In addition to the above, it is respectfully noted that Applicant's claims have been amended to specifically recite a "computer-readable" medium, method, etc..

Based upon the foregoing, reconsideration and withdrawal of the '101 rejection are respectfully requested.

In the event that the 101 rejection still has not been overcome with respect to any claim, any guidance which the Examiner can provide to help Applicant overcome the 101 rejection would be greatly appreciated.

NON-STATUTORY DBL PAT. REJECT. - TERMINAL DISCLAIMER FILED

The obviousness-type double patenting rejection of claims 1, 5 and 9 as set forth on page 4 of the "Detailed Action" of the Office Action, is respectfully traversed.

However, in order to travel a path of least resistance to obtaining a patent for the present application, submitted herewith is an executed Terminal Disclaimer to overcome the non-statutory double patenting rejection. As a result of the foregoing, reconsideration and withdrawal of the double patenting rejection of the subject claims are respectfully requested. The above statements, or the filing of any Terminal Disclaimer, should not be taken as an indication or admission that the rejection was valid, but is merely use of a procedural approach to obtain a patent (without prejudice or disclaimer) as quickly as possible given that the present application's patent may have coextensive term anyways as measured from the same original filing date, regardless of the Terminal Disclaimer. Further discussions/arguments concerning such rejection(s), claims and/or reference are left for the future if/when appropriate.

EXAMINER INVITED TO TELEPHONE

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any

Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-

2135 (Case No. 520.36323C14) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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A handwritten signature in cursive script, appearing to read "Paul J. Skwierawski".

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